

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RIGOBERTO GARCIA JAIMES,	:	MOTION TO VACATE
Movant,	:	28 U.S.C. § 2255
	:	
v.	:	CRIMINAL INDICTMENT NO.
	:	1:03-CR-0493-ODE-AJB-15
UNITED STATES OF AMERICA,	:	
Respondent.	:	CIVIL FILE NO.
	:	1:13-CV-0981-ODE-AJB

**UNITED STATES MAGISTRATE JUDGE'S
FINAL REPORT AND RECOMMENDATION**

This matter is before the Court on Movant's 28 U.S.C. § 2255 motion, filed March 25, 2013. [Doc. 2478.] By Order and Judgment entered in January 2010, the Court denied Movant's original § 2255 motion challenging his convictions under the above criminal docket number. [Docs. 2114, 2255, 2256.] This is a successive § 2255 motion which must be dismissed because the Court has no authority to consider it. Movant first must get permission from the Eleventh Circuit Court of Appeals before a successive § 2255 motion can be filed in the district court. *See* 28 U.S.C. § 2255(h); *Farris v. United States*, 333 F.3d 1211, 1216 (11th Cir. 2003). A certificate of appealability is not warranted because it is not debatable that Movant must obtain permission from the Eleventh Circuit Court of Appeals before filing another § 2255

motion in this Court. *See* Rules Governing Section 2255 Proceedings for the United States District Courts, Rule 11.

Accordingly,

IT IS RECOMMENDED that this § 2255 motion, [Doc. 2478], be **DISMISSED** and that a certificate of appealability be **DENIED**.

The Clerk of Court is **DIRECTED** to withdraw the referral of this § 2255 motion to the undersigned Magistrate Judge.

IT IS SO RECOMMENDED and DIRECTED, this 3rd day of April, 2013.



ALAN J. BAVERMAN
UNITED STATES MAGISTRATE JUDGE